

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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	:	
In re:	:	Chapter 7
	:	
NATIONAL EVENTS HOLDINGS, LLC, <i>et al.</i> ,	:	Case No.: 17-11556 (JLG)
	:	(Jointly Administered)
Debtors.	:	
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KENNETH P. SILVERMAN, ESQ., THE CHAPTER 7	:	
TRUSTEE OF THE JOINTLY ADMINISTERED	:	Adv. Pro. No.: 19-01101 (JLG)
ESTATES OF NATIONAL EVENTS HOLDINGS,	:	
LLC, <i>et al.</i> ,	:	
	:	
Plaintiff,	:	
	:	
-against-	:	
	:	
ALAIN KUPPERMAN,	:	
	:	
Defendant.	:	
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**ANSWER AND AFFIRMATIVE DEFENSES**

Defendant Alain Kuppermann (“Defendant”), by and through his undersigned counsel, for his Answer to the Complaint (the “Complaint”) [ECF No. 1], filed by Plaintiff Kenneth P. Silverman, Esq. (“Plaintiff”), the chapter 7 trustee of the jointly administered estates of National Events Holdings, LLC, *et al.* (collectively, the “Debtors”), responds as follows:

**Nature of the Action**

1. Defendant denies the allegation in paragraph 1 of the Complaint that Jason Nissen (“Nissen”) operated a Ponzi scheme. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 1 of the Complaint and therefore denies them, leaving Plaintiff to his proofs.

2. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 2 of the Complaint and therefore denies them, leaving Plaintiff to his proofs.

3. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3 of the Complaint and therefore denies them, leaving Plaintiff to his proofs.

4. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 4 of the Complaint and therefore denies them, leaving Plaintiff to his proofs.

5. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 5 of the Complaint and therefore denies them, leaving Plaintiff to his proofs.

6. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 6 of the Complaint and therefore denies them, leaving Plaintiff to his proofs.

7. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 7 of the Complaint and therefore denies them, leaving Plaintiff to his proofs.

8. Denies the allegations contained in paragraph 8 of the Complaint. Defendant leaves Plaintiff to his proofs as to whether the “WEG Net Transfers” alleged in the Complaint constitute an accurate and complete record of Defendant’s dealings with the Debtors.

9. Denies the allegations contained in paragraph 9 of the Complaint. Defendant leaves Plaintiff to his proofs as to whether the “NEC II Net Transfers” alleged in the Complaint constitute an accurate and complete record of Defendant’s dealings with the Debtors.

10. Paragraph 10 of the Complaint does not contain any allegations which Defendant is required to admit or deny, and therefore denies them, leaving Plaintiff to his proofs.

### **Jurisdiction and Venue**

11. The allegations contained in paragraph 11 of the Complaint state legal conclusions as to which no response is required. Pursuant to Federal Rule of Bankruptcy Procedure 7012(b), Defendant states he does not consent to entry of final orders or judgment by the Bankruptcy Court.

12. The allegations contained in paragraph 12 of the Complaint state legal conclusions as to which no response is required.

13. The allegations contained in paragraph 13 of the Complaint state legal conclusions as to which no response is required.

14. The allegations contained in paragraph 14 of the Complaint state legal conclusions as to which no response is required.

### **The Parties**

15. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 15 of the Complaint and therefore denies them, leaving Plaintiff to his proofs.

16. Denies the allegations contained in paragraph 16 of the Complaint.

## **ALLEGATIONS COMMON TO ALL CLAIMS FOR RELIEF**

### **The Debtors' Business**

17. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 17 of the Complaint and therefore denies them, leaving Plaintiff to his proofs.

18. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 18 of the Complaint and therefore denies them, leaving Plaintiff to his proofs.

19. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 19 of the Complaint and therefore denies them, leaving Plaintiff to his proofs.

20. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 20 of the Complaint and therefore denies them, leaving Plaintiff to his proofs.

21. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 21 of the Complaint and therefore denies them, leaving Plaintiff to his proofs.

22. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 22 of the Complaint and therefore denies them, leaving Plaintiff to his proofs.

23. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 23 of the Complaint and therefore denies them, leaving Plaintiff to his proofs.

24. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 24 of the Complaint and therefore denies them, leaving Plaintiff to his proofs.

25. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 25 of the Complaint and therefore denies them, leaving Plaintiff to his proofs.

26. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 26 of the Complaint and therefore denies them, leaving Plaintiff to his proofs.

27. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 27 of the Complaint and therefore denies them, leaving Plaintiff to his proofs.

28. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 28 of the Complaint and therefore denies them, leaving Plaintiff to his proofs.

**Falcon Strategic Partners IV, LP Funding of,  
and Investment in, the LLC Debtors**

29. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 29 of the Complaint and therefore denies them, leaving Plaintiff to his proofs.

30. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 30 of the Complaint and therefore denies them, leaving Plaintiff to his proofs.

31. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 31 of the Complaint and therefore denies them, leaving Plaintiff to his proofs.

32. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 32 of the Complaint and therefore denies them, leaving Plaintiff to his proofs.

33. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 33 of the Complaint and therefore denies them, leaving Plaintiff to his proofs.

34. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 34 of the Complaint and therefore denies them, leaving Plaintiff to his proofs.

35. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 35 of the Complaint and therefore denies them, leaving Plaintiff to his proofs.

36. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 36 of the Complaint and therefore denies them, leaving Plaintiff to his proofs.

#### **Nissen's Arrest and Guilty Plea**

37. Defendant denies the allegation in paragraph 37 of the Complaint that Nissen operated a Ponzi scheme. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 37 of the Complaint and therefore denies them, leaving Plaintiff to his proofs.

38. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 38 of the Complaint and therefore denies them, leaving Plaintiff to his proofs.

39. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 39 of the Complaint and therefore denies them, leaving Plaintiff to his proofs.

40. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 40 of the Complaint and therefore denies them, leaving Plaintiff to his proofs.

41. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 41 of the Complaint and therefore denies them, leaving Plaintiff to his proofs.

42. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 42 of the Complaint and therefore denies them, leaving Plaintiff to his proofs.

43. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 43 of the Complaint and therefore denies them, leaving Plaintiff to his proofs.

44. Defendant denies the allegation in paragraph 44 of the Complaint that Nissen operated a Ponzi scheme. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 44 of the Complaint and therefore denies them, leaving Plaintiff to his proofs.

45. Defendant denies the allegation in paragraph 45 of the Complaint that Nissen operated a Ponzi scheme. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 45 of the Complaint and therefore denies them, leaving Plaintiff to his proofs.

#### **The Bankruptcy Cases**

46. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 46 of the Complaint and therefore denies them, leaving Plaintiff to his proofs.

47. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 47 of the Complaint and therefore denies them, leaving Plaintiff to his proofs.

48. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 48 of the Complaint and therefore denies them, leaving Plaintiff to his proofs.

49. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 49 of the Complaint and therefore denies them, leaving Plaintiff to his proofs.

50. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 50 of the Complaint and therefore denies them, leaving Plaintiff to his proofs.

51. Defendant denies the allegation in paragraph 51 of the Complaint that Nissen operated a Ponzi scheme. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 51 of the Complaint and therefore denies them, leaving Plaintiff to his proofs.



52. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 52 of the Complaint and therefore denies them, leaving Plaintiff to his proofs.

53. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 53 of the Complaint and therefore denies them, leaving Plaintiff to his proofs.

54. Denies the allegations contained in paragraph 54 of the Complaint.

55. The allegations contained in paragraph 55 of the Complaint state legal conclusions as to which no response is required. To the extent that a response is required, Defendant denies the allegations in paragraph 55 of the Complaint.

56. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 56 of the Complaint and therefore denies them, leaving Plaintiff to his proofs.

#### **First Claim for Relief**

57. Denies the allegations contained in paragraph 57 of the Complaint.

58. Denies the allegations contained in paragraph 58 of the Complaint.

59. Denies the allegations contained in paragraph 59 of the Complaint.

#### **Second Claim for Relief**

60. Denies the allegations contained in paragraph 60 of the Complaint.

61. Denies the allegations contained in paragraph 61 of the Complaint.

#### **Third Claim for Relief**

62. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 62 of the Complaint and therefore denies them, leaving Plaintiff to his proofs.

- 63. Denies the allegations contained in paragraph 63 of the Complaint.
- 64. Denies the allegations contained in paragraph 64 of the Complaint.

**Fourth Claim for Relief**

65. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 65 of the Complaint and therefore denies them, leaving Plaintiff to his proofs.

- 66. Denies the allegations contained in paragraph 66 of the Complaint.
- 67. Denies the allegations contained in paragraph 67 of the Complaint.

**Fifth Claim for Relief**

- 68. Denies the allegations contained in paragraph 68 of the Complaint.
- 69. Denies the allegations contained in paragraph 69 of the Complaint.
- 70. Denies the allegations contained in paragraph 70 of the Complaint.

**Sixth Claim for Relief**

- 71. Denies the allegations contained in paragraph 71 of the Complaint.
- 72. Denies the allegations contained in paragraph 72 of the Complaint.
- 73. Denies the allegations contained in paragraph 73 of the Complaint.

**Seventh Claim for Relief**

- 74. Denies the allegations contained in paragraph 74 of the Complaint.
- 75. Denies the allegations contained in paragraph 75 of the Complaint.

**Eighth Claim for Relief**

76. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 76 of the Complaint and therefore denies them, leaving Plaintiff to his proofs.

- 77. Denies the allegations contained in paragraph 77 of the Complaint.

78. Denies the allegations contained in paragraph 78 of the Complaint.

**Ninth Claim for Relief**

79. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 79 of the Complaint and therefore denies them, leaving Plaintiff to his proofs.

80. Denies the allegations contained in paragraph 80 of the Complaint.

81. Denies the allegations contained in paragraph 81 of the Complaint.

**Tenth Claim for Relief**

82. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 82 of the Complaint and therefore denies them, leaving Plaintiff to his proofs.

83. Denies the allegations contained in paragraph 83 of the Complaint.

84. Denies the allegations contained in paragraph 84 of the Complaint.

**Eleventh Claim for Relief**

85. Denies the allegations contained in paragraph 85 of the Complaint.

86. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 86 of the Complaint and therefore denies them, leaving Plaintiff to his proofs.

87. Denies the allegations contained in paragraph 87 of the Complaint.

**Twelfth Claim for Relief**

88. Denies the allegations contained in paragraph 88 of the Complaint.

89. Denies the allegations contained in paragraph 89 of the Complaint.

90. Denies the allegations contained in paragraph 90 of the Complaint.

### **GENERAL DENIAL**

Defendant denies each and every allegation contained in the Complaint that is not hereinabove expressly admitted and Defendant further denies that Plaintiff is entitled to any relief or recovery whatsoever from Defendant in this action.

### **AFFIRMATIVE DEFENSES**

Without admitting any of the allegations of the Complaint and without admitting or suggesting that Defendant bears the burden of proof on any of the following issues, as separate and independent defenses and/or affirmative defenses, Defendant states as follows:

#### **FIRST AFFIRMATIVE DEFENSE**

The Complaint fails to state a claim upon which relief can be granted.

#### **SECOND AFFIRMATIVE DEFENSE**

The Plaintiff's claims are barred, in whole or in part, by the doctrines of waiver, estoppel, unclean hands, *in pari delicto* and/or laches.

#### **THIRD AFFIRMATIVE DEFENSE**

None of the transfers that the Complaint seeks to avoid was made with actual intent to hinder, delay or defraud the Debtors' creditors.

#### **FOURTH AFFIRMATIVE DEFENSE**

The Debtors received reasonably equivalent value and/or fair consideration in exchange for each of the transfers that the Complaint seeks to avoid.

#### **FIFTH AFFIRMATIVE DEFENSE**

The Debtors were not insolvent at the time that any of the transfers that the Complaint seeks to avoid was made, nor were the Debtors rendered insolvent by any of the transfers.

#### **SIXTH AFFIRMATIVE DEFENSE**

The Debtors were not engaged in a business or transaction for which the property remaining in the Debtors' possession after any of the transfers that the Complaint seeks to avoid was unreasonably small capital.

#### **SEVENTH AFFIRMATIVE DEFENSE**

The Debtors did not incur, intend to incur, or believe they would incur debts beyond their ability to pay as they matured at the time of any of the transfers that the Complaint seeks to avoid.

#### **EIGHTH AFFIRMATIVE DEFENSE**

The transfers alleged in the Complaint may not be avoided or recovered because Defendant acted in good faith and without fraudulent intent.

#### **NINTH AFFIRMATIVE DEFENSE**

The transfers alleged in the Complaint may not be avoided or recovered because each transfer satisfied an antecedent debt or obligation.

#### **TENTH AFFIRMATIVE DEFENSE**

Plaintiff's claims are barred because Defendant is a good faith transferee that accepted the disputed payments without intent to defraud Debtors, under the reasonable belief that he was entitled to the disputed payments, and without knowledge of any alleged intentional or constructive fraud.

#### **ELEVENTH AFFIRMATIVE DEFENSE**

Plaintiff's claims are barred by setoff and/or recoupment.

#### **TWELFTH AFFIRMATIVE DEFENSE**

Plaintiff's claims are barred insofar as they are not pled with the requisite particularity.

#### **THIRTEENTH AFFIRMATIVE DEFENSE**

Plaintiff's claims are barred by the applicable statute of limitations.

#### **FOURTEENTH AFFIRMATIVE DEFENSE**

To the extent applicable, Defendant hereby incorporates by reference the affirmative defenses set forth in Federal Rule of Civil Procedure 8 and pursuant to Federal Rule of Bankruptcy Procedure 7008.

#### **RESERVATION OF RIGHTS**

The foregoing affirmative defenses are raised by Defendant without waiver of any other defenses that may be available or determined after discovery is undertaken. Defendant gives notice that he intends to rely upon any defenses available, and reserves the right to assert any other additional defenses that may become available or apparent at any time during the pendency of these proceedings.

**WHEREFORE**, Defendant requests entry of judgment dismissing the Complaint with prejudice, that Defendant be reimbursed for its costs and attorneys' fees incurred in responding to the Complaint, and asks that the Court grant such other and further relief as may be just and proper.

Dated: New York, New York  
September 13, 2019

RUBIN LLC

By:           /s/ Paul A. Rubin            
Paul A. Rubin  
Hanh V. Huynh

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